



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-xxxx, 3060-0349, 3060-0214, 3060-0113, 3060-0922, 3060-1065]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-xxxx.

Title: SDARS Political Broadcasting Requirements.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in 47 USC 309(a) and 307(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR § 0.459 of the Commission's Rules).

Privacy Impact Assessment: No impact(s).

Needs and Uses: In 1997, the Commission imposed political broadcasting requirements on Satellite Digital Audio Broadcasting Service ("SDARS") licensees. See Establishment of Rules and Policies for

the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, 12 FCC Rcd 5754, 5792, para. 92 (1997) (“1997 SDARS Order”), FCC 97-70. The Commission stated that SDARS licensees should comply with the same substantive political debate provisions as broadcasters: the federal candidate access provision (47 U.S.C. Section 312(a)(7)) and the equal opportunities provision (47 U.S.C. Section 315). The 1997 SDARS Order imposes the following requirements on SDARS licensees:

Lowest unit charge: Similar to broadcasters, SDARS licensees must disclose any practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time. SDARS licensees must also calculate the lowest unit charge and are required to review their advertising records throughout the election period to determine whether compliance with this rule section requires that candidates receive rebates or credits. See 47 CFR Section 73.1942.

Political file: Similar to broadcasters, SDARS licensees must also keep and permit public inspection of a complete record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. See 47 CFR 73.1943.

OMB Control Number: 3060-0349.

Title: Equal Employment Opportunity (“EEO”) Policy, 47 CFR Sections 73.2080, 76.73, 76.75, 76.79 and 76.1702.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions.

Number of Respondents and Responses: 14,179 respondents; 14,179 responses.

Estimated Time per Response: 42 hours

Frequency of Response: Recordkeeping requirement; annual reporting requirement; five year reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended, and Section 634 of the Cable Communications Policy Act of 1984.

Total Annual Burden: 595,518 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 C.F.R. Section 73.2080 provides that equal opportunity in employment shall be afforded by all broadcast stations to all qualified persons and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin or sex. Section 73.2080 requires that each broadcast station employment unit with 5 or more full-time employees shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a broadcast station's policy and practice. These same requirements also apply to Satellite Digital Audio Radio Service ("SDARS") licensees.

Revised Information Collection Requirement:

In 1997, the Commission determined that SDARS licensees must comply with the Commission's EEO requirements. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791, ¶ 91 (1997) ("1997 SDARS Order"), FCC 97-70. In 2008, the Commission clarified that SDARS licensees must comply with the Commission's EEO broadcast rules and policies, including the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, as well as any other Commission EEO policies. See Applications for Consent to the Transfer of Control of Licenses, SM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) ("XM-Sirius Merger Order").

The Commission is making this submission to the Office of Management and Budget for approval to add SDARS licensees to this information collection.

OMB Control Number: 3060-0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions; individuals or households.

Number of Respondents and Responses: 24,559 respondents; 63,235 responses.

Estimated Time per Response: 1 - 104 hours

Frequency of Response: Recordkeeping requirement; on occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,375,337 hours.

Total Annual Cost: \$882,631.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR § 0.459.

Privacy Impact Assessment: Should respondents submit any PII as part of the information collection requirements, the FCC has an existing system of records, FCC/MB-1, "Ownership of Commercial Broadcast Stations," that may partially cover this PII. In addition, the Commission has prepared a second system of records notice, FCC/MB-2, "Broadcast Station Public Inspection Files," that will cover the PII contained in the broadcast station public inspection files to be located on the Commission's website. The Commission is also drafting a PIA for the records covered by this SORN.

Needs and Uses: Satellite Radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees are required to comply with the Commission's EEO broadcast rules and policies, including public file obligations and periodic submissions to the Commission. See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) ("XM-Sirius Merger Order"). See also Establishment of Rules and Policies for

the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791-92, ¶¶ 91-92 (1997) (“SDARS Order”), FCC 97-70. This collection is being revised to reflect the burden associated with the EEO public file requirements.

OMB Control Number: 3060-0113.

Title: Broadcast EEO Program Report, FCC Form 396.

Form Number: FCC Form 396.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions.

Number of Respondents and Responses: 2,001 respondents; 2,001 responses.

Estimated Time per Response: 1.5 hours

Frequency of Response: On renewal reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 3,002 hours.

Total Annual Cost: \$300,300.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Broadcast Equal Employment Opportunity (EEO) Program Report, FCC Form 396, is a device that is used to evaluate a broadcaster's EEO program to ensure that satisfactory efforts are being made to comply with FCC's EEO requirements. FCC Form 396 is required to be filed at the time of renewal of license by all AM, FM, TV, Low Power TV and

International stations. Licensees in the Satellite Digital Audio Radio Service (“SDARS”) also must file FCC Form 396.

The recordkeeping requirements for FCC Form 396 are covered under OMB control number 3060-0214.

Revised Collection Requirement:

In 1997, the Commission determined that SDARS licensees must comply with the Commission’s EEO requirements. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791, ¶ 91 (1997) (“1997 SDARS Order”), FCC 97-70. In 2008, the Commission clarified that SDARS licensees must comply with the Commission’s EEO broadcast rules and policies, including the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, as well as any other Commission EEO policies. See Applications for Consent to the Transfer of Control of Licenses, SM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (“XM-Sirius Merger Order”).

The Commission is making this submission to the Office of Management and Budget for approval to add SDARS licensees to this information collection.

OMB Control Number: 3060-0922.

Title: Broadcast Mid-Term Report, FCC Form 397.

Form Number: FCC Form 397.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-profit institutions.

Number of Respondents and Responses: 1,181 respondents; 1,181 responses.

Estimated Time per Response: 0.5 hours

Frequency of Response: Mid-point reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 154(i) and 303 of the Communications Act, as amended.

Total Annual Burden: 591 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Broadcast Mid-Term Report (FCC Form 397) is required to be filed by each broadcast television station that is part of an employment unit with five or more full-time employees and each broadcast radio station that is part of an employment unit with more than ten full-time employees. It is a data collection device used to assess broadcast compliance with EEO outreach requirements in the middle of license terms that are eight years in duration. FCC Form 397 must also be filed by Satellite Digital Audio Radio Services (SDARS) licensees to assess compliance with EEO outreach requirements.

Revised Information Collection Requirements Which Require Approval and Review by the Office of Management and Budget (OMB):

Satellite Radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees are required to comply with the Commission’s EEO broadcast rules and policies. They must engage in the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, and are subject to the same EEO policies. See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (“XM-Sirius Merger Order”). See also Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791-92, ¶¶ 91-92 (1997) (“SDARS Order”), FCC 97-70. This collection is being revised to reflect the burden associated with filing FCC Form 397 by SDARS licensees. Therefore, these respondents are being added as respondents to this collection. The form is not being revised.

OMB Control Number: 3060-1065.

Title: Section 25.701 of the Commission’s Rules, Direct Broadcast Satellite Public Interest Obligations.

Form Number: N/A.

Type of Review: Reinstatement of a previously approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2 respondents; 2 responses.

Estimated Time per Response: 1 – 10 hours

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; one time reporting requirement; annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 335 of the Communications Act of 1934, as amended.

Total Annual Burden: 50 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR § 0.459 of the Commission's Rules).

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission vacated an Order on Reconsideration, In the Matter of Implementation Of Section 25 Of The Cable Television Consumer Protection And Competition Act Of 1992, Direct Broadcast Satellite Public Interest Obligations, MM No. Docket 93-25 FCC 03-78, adopted April 9, 2003 and adopted in its place, in the same proceeding, a Second Order on Reconsideration of the First Report and Order, Sua Sponte Order on Reconsideration ("Second Order") and accompanying rules FCC 04-44, released March 25, 2004. The Second Order differs from the Order on Reconsideration with respect to two issues: (1) the political broadcasting requirements, and (2) the guidelines concerning commercialization of children's programming.

47 CFR 25.701(c)(1)(i)(C) states DBS providers may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time sensitive

make goods. DBS providers may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

47 CFR 25.701(c)(1)(i)(D) states DBS providers may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

47 CFR 25.701(c)(1)(i)(E) states DBS providers may treat non preemptible and fixed position as distinct classes of time provided that they articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

47 CFR 25.701(c)(1)(i)(I) states DBS providers shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, DBS providers shall issue such rebates or credits promptly.

47 CFR 25.701(c)(1)(i)(M) states DBS providers must disclose and make available to candidates any make good policies provided to commercial advertisers. If a DBS provider places a make good for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

47 CFR 25.701(c)(1)(ii) states at any time other than the respective periods set forth in paragraph (c)(1)(i) of this section, DBS providers may charge legally qualified candidates for public office no more than the charges made for comparable use of the facility by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the DBS provider would charge for comparable commercial advertising. All discount privileges otherwise offered by a DBS

provider to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

47 CFR 25.701(d) states each DBS provider shall keep and permit public inspection of a complete and orderly political file and shall prominently disclose the physical location of the file, and the telephonic and electronic means to access the file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for DBS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The ``disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) DBS providers shall place all records required by this section in a file available to the public as soon as possible and shall be retained for a period of four years until December 31, 2006, and thereafter for a period of two years.

47 CFR 25.701(e)(3) requires DBS providers airing children's programming must maintain records sufficient to verify compliance with this rule and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

47 CFR 25.701(f)(6) states that each DBS provider shall keep and permit public inspection of a complete and orderly record of:

(A) Quarterly measurements of channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its response to any capacity changes;

(B) A record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity;

(C) A record of entities that have requested capacity, disposition of those requests and reasons for the disposition.

(ii) All records required by this paragraph shall be placed in a file available to the public as soon as possible and shall be retained for a period of two years.

The statutory authority which covers this information collection is contained in 47 USC 335 of the Communications Act of 1934, as amended.

Revised Information Collection Requirements:

The Commission is reinstating this collection into the Office of Management and Budget's (OMB's) inventory because after further evaluation the Commission has determined that this collection is still needed by the Commission because DBS providers make up the majority of their universe of respondents. Since this is the case, OMB approval is still need for this collection.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Office of the Secretary.

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